IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Application No.226 of 2006
In
Criminal Appeal No.205 of 2006

Shri Vicky Ganpat Lad — Applicant
Vs.
State of Maharashtra — Respondent

Mr.A.P.Mundargi, Sr.Counsel with Ms. Asmita Sarangdhar for applicant.

Mrs. U.V. Kejriwal, APP for State.

CORAM: B.H.MARLAPALLE & R.S. MOHITE, JJ.

March 08, 2007.

P.C.

. We have heard Mr.Mundargi, the learned Senior Counsel with Ms. Asmita Sarangdhar for the applicant - accused no.1. The applicant prays for being released on bail during the pendency of Criminal Appeal no.205 of 2006. The applicant along with accused no.2 came to be convicted and sentenced for the offence punishable under Section 302 read with Section 34 of IPC by the learned 3rd Ad-hoc Addl. Sessions Judge at Thane in Sessions Case No. 30 of 2004 and accused no. 2 - Jitu Lalchand Sonkar who has filed Criminal Appeal No.1233 of 2005 has been released on bail by this Court.

. We have considered the arguments advanced by

Mr.Mundargi and also the reasoning set out by the trial Court in support of its findings that the accused no.1 is guilty of causing the murder of Lalchand Prajapati. The trial Court has noted that the assault was inflicted by the accused no.1 with an iron rod and on the head of the deceased and in this regard the evidence of PW 5 Dr. Tejaswini Bhagat has been relied upon. We are, therefore, satisfied that the role attributed to the accused no.1 cannot be compared with the role attributed to the accused no.2 in causing the death of Lalchand and, therefore, this applicant is not entitled for being released on bail by suspending the order of sentence under Section 389 of Cr.P.C.

. The application is hereby rejected. Hearing of the appeal is expedited. The applicant is at liberty to submit a private paper-book.

(R.S.MOHITE,J.) (B.H.MARLAPALLE,J.)